



Comptroller General  
of the United States  
Washington, D.C. 20548

## Decision

**Matter of:** Landis & Gyr Powers, Inc.

**File:** B-250354

**Date:** January 26, 1993

William M. Weisberg, Esq., Barton, Mountain & Tolle, for the protester.  
Michael A. Hordell, Esq., and Laurel A. Heneghan, Esq., Petrillo & Hordell, for Johnson Controls, Inc., an interested party.  
Don G. Bush, National Aeronautics and Space Administration, for the agency.  
Scott H. Riback, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Contention that agency improperly used undisclosed "lack of technical detail" criterion in evaluating proposals is denied where solicitation required adequate detail to demonstrate compliance with specifications and agency reasonably determined that protester's proposal lacked such detail.
2. Protest that agency failed to conduct meaningful discussions is denied where agency led protester into all areas of its offer which were deemed inadequate or noncompliant.
3. Protest that agency conducted improper cost evaluation is denied where record contains no evidence that agency deviated from stated evaluation method and protester did not rebut or reply to agency's detailed response to cost evaluation challenge.

### DECISION

Landis & Gyr Powers, Inc. protests the award of a contract to Johnson Controls, Inc. under request for proposals (RFP) No. 5-28898/071, issued by the National Aeronautics and Space Administration (NASA) for modifications to the utility control system at NASA's Goddard Space Flight Center (GSFC). Landis argues that NASA improperly downgraded its proposal based on an undisclosed evaluation factor and on the

agency's misunderstanding of its proposal, failed to conduct meaningful discussions, and improperly normalized the competing offerors' cost proposals.

We deny the protest in part and dismiss it in part.

The RFP called for the submission of fixed-price, indefinite quantity offers to modify the utility control system (which controls and monitors the facility's heating, ventilation and air conditioning systems) at GSFC. Essentially, the solicitation required the contractor to convert the utility control system from a pneumatic-based system to a direct digital system in various buildings at GSFC. The RFP contemplated the award of a 1-year contract to install a new control facility and modernize selected buildings, and contained four 1-year options to convert additional buildings at the facility. Award was to be made to the firm submitting the proposal representing the best overall value to the government, considering price and technical factors.

The RFP contained four evaluation criteria: Mission Suitability was the most important criterion; Cost/Price and Relevant Experience and Past Performance were of approximately equal importance but were less important than Mission Suitability; and Other Considerations was least important. Mission Suitability, the only point-scored criterion, was divided into three subfactors: subfactor I, technical proposal (worth 70 percent of the available evaluation points), subfactor II, management/resources (worth 20 percent), and subfactor III, personnel (worth 10 percent). Subfactor I was further divided into three subelements: technical narrative (worth 20 percent), technical submittals (worth 20 percent), and capability demonstration (worth 30 percent).

The other three criteria were unscored. Cost/Price was to be evaluated to determine the probable cost to the government of accepting a particular proposal and called for the agency to determine a firm's evaluated cost on the basis of certain stated assumptions that permitted the government to calculate evaluated costs despite the indefinite quantity nature of the requirement. Relevant Experience and Past Performance called for consideration of the offerors' performance on prior contracts, taking into consideration the firm's experience, technical performance and ability to adhere to delivery schedules. Other Considerations encompassed considerations such as financial condition and capability, resource availability, labor/management relations, small business compliance plan, licensing agreements, overall compliance with the RFP and the scope and impact of deviations and exceptions to the RFP's terms. These latter two criteria were adjectivally scored as good, adequate or poor.

NASA received eight proposals, four of which, including Landis's and Johnson's, were determined to be within the competitive range. The agency engaged in discussions with the competitive range offerors and solicited best and final offers (BAFO). Based on the BAFO evaluation, Johnson received the highest technical score under the Mission Suitability criterion, a rating of good under the Relevant Experience and Past Performance criterion, and ratings of either good or adequate under the various subelements of the Other Considerations criterion. Landis received the second highest point score under the Mission Suitability criterion and a rating of adequate under all of the remaining criteria. Johnson's evaluated price was higher than two of the competitive range offerors but lower than the evaluated price of Landis. NASA therefore made award to Johnson, concluding that the firm's proposal represented the best overall value to the government.

#### UNSTATED CRITERION

Landis argues that NASA improperly downgraded its proposal for failing to include an adequate level of "technical detail," since that is a criterion not specified in the RFP. The agency responds that it properly downgraded Landis for failing to include adequate technical information in its proposal. According to NASA, Landis's proposal was inadequate because it did not specifically identify the equipment and services the firm was proposing and that, as a consequence, its evaluators were in many instances unable to determine whether the protester's proposed system met the RFP's specifications.

Agencies may properly downgrade a proposal for lack of detail pertaining to the particular work being procured, so long as the solicitation is clear regarding the level of detail required. See generally, ICONCO/NATIONAL Joint Venture, B-240119, Oct. 16, 1990, 90-2 CPD ¶ 296.

We find that NASA properly evaluated Landis's proposal in accordance with the RFP. The RFP instructed offerors to include in their proposals a technical narrative describing their proposed system, a package of technical data (such as catalogs and technical literature) and a compliance checklist showing, paragraph-by-paragraph, where their proposals showed compliance with each specification. Further, the evaluation criteria required offerors to demonstrate through the submission of technical materials that their proposed system met the specifications. In this regard, the technical narrative and technical submittal elements of the Mission Suitability evaluation criterion required offerors to provide detailed information (including, for example, the mark-up of technical data submissions to identify specific equipment and software)

relating to the array of products being offered and showing compliance with the specifications. Finally, the RFP specifically advised that blanket statements of compliance would be insufficient to demonstrate that offered products met the specifications.

The record shows that the evaluators' primary concern with Landis's proposal was its lack of sufficient information to show that the firm's proposed system met the specifications. In this respect, the evaluators were unable to determine from either Landis's initial offer or its BAFO precisely what equipment was being proposed by the firm to meet a significant number of requirements. For example, the evaluators were unable to determine what equipment was being offered by Landis to meet the RFP's requirement for electronic pressure instrumentation. The firm offered different products in its initial offer and its BAFO but did not indicate which of the identified products it intended to furnish and did not provide technical literature (such as manufacturer's brochures or technical data sheets) to show that any or all of the offered products met the specifications. In other instances (such as the RFP's requirement for electronic air flow instrumentation), although Landis ultimately identified a particular product, it failed to provide technical information to show that the identified product met the specifications.

Landis's proposal also did not contain adequate detail to show that the firm met other aspects of the RFP, beyond the hardware requirements. For example, Landis offered a software package (which apparently is proprietary to the firm), the description of which was incomplete, containing a discussion of only a few of the package's programs; the agency concluded that it could not determine compliance with the specifications from this incomplete information. Landis was asked during discussions for additional information concerning its software package but declined to furnish it, stating only that it would provide the information after construction was commenced and NASA entered into a nondisclosure agreement with the firm. Landis also failed to demonstrate compliance with the RFP's requirements for training courses. Landis submitted a catalog of the training courses which it has available but did not identify which of the available courses satisfied the RFP's requirement for four particular courses. When asked about the matter during discussions, Landis replied only that it would provide "training as specified in the RFP."

Landis does not dispute the agency's findings with respect to the informational deficiencies in its proposal. As we have found that the RFP required Landis to provide detail sufficient to establish compliance with the specifications, and the record shows that such detail was lacking in numerous instances, we conclude that the agency reasonably downgraded Landis's proposal based on a lack of detail.

#### DISCUSSIONS

Landis argues that the agency failed to conduct meaningful discussions with it. Its argument in this regard is essentially an extension of its argument relating to the required level of technical detail; the protester maintains that, assuming its proposal was deficient because it did not contain adequate detail, NASA improperly failed to bring the matter to its attention during discussions. While Landis concedes that NASA asked one discussion question in this area, it maintains that this single question relating to the adequacy of its technical submissions was insufficient to lead it into an area which ultimately was the discriminator between its and Johnson's proposals.

Discussions are meaningful where the agency imparts sufficient information to the offeror to afford it a reasonable opportunity to identify and correct deficiencies in its proposal. Antec Corp., B-240647, Dec. 12, 1990, 90-2 CPD ¶ 482.

We find that NASA met its obligation to conduct meaningful discussions with Landis; the questions presented to it were sufficiently specific to lead the firm into the areas of its proposal which lacked adequate technical documentation. As noted earlier, the evaluators' primary concern with the Landis proposal was their inability to determine whether the firm's offered products complied with the specifications. This deficiency related both to the firm's offered software and hardware, as well as other areas of its proposal. Regarding its proposed software, NASA pointed out during written discussions with Landis that its compliance checklist referenced documents describing only a few of the programs contained in its command and application software, some of which were only partially described. NASA therefore asked Landis to demonstrate in its BAFO how its proposed software complied with the specifications. Landis was also asked whether a complete library of applications programs including control sequences would be furnished.

Similarly, the evaluators identified deficiencies in Landis's proposed hardware. Although Landis is correct that NASA's discussions in this area were limited to a single question, this question was sufficient to lead Landis into the areas of its proposal requiring additional support.

NASA asked Landis to clarify how it intended to comply with the requirements of the specifications and identified some 18 different sections of the statement of work. (In some instances, the specification sections were further described using paragraph and subparagraph references.) NASA's question also referenced the section of the specifications relating to the RFP's training requirements, another area of the Landis proposal where the agency was unable to determine whether Landis was offering to meet the requirements of the RFP.

We think the questions presented to Landis were sufficient to alert the firm to the areas of the agency's concerns, specifically, the lack of adequate detail in several areas of its proposal. While Landis may believe the questioning should have been more extensive, additional questions were not necessary to provide the required notice. We conclude that the discussions were meaningful.

#### COST/PRICE EVALUATION

Landis alleges that NASA's cost evaluation was flawed because the agency normalized costs in arriving at its evaluated cost calculations for the offerors, and the RFP did not advise that proposed costs would be normalized.

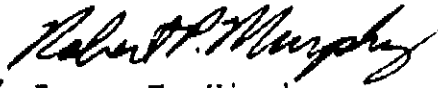
Landis does not explain the basis for its allegation but, in any case, we find nothing improper in the cost evaluation. To arrive at the offerors' evaluated costs, NASA applied the proposed costs to the assumptions provided in the RFP for firms to use in preparing their offers. (These assumptions were necessary given the indefinite nature of the requirement.) For example, the RFP provided a series of assumptions relating to the timing and quantity of representative installations at various buildings throughout the facility. Offerors were specifically advised that NASA would determine the evaluated cost for each proposal on the basis of the assumptions. As we find no indication that the cost evaluation was inconsistent with the RFP, and in view of the fact that Landis did not explain its rather general argument after being provided access to the cost evaluation materials under protective order, we have no basis to question the cost evaluation.

#### MISCELLANEOUS

Finally, Landis argues that "on information and belief" NASA improperly downgraded its proposal based on a fundamental series of technical misunderstandings. Landis cites by way of example NASA's allegedly erroneous perception that Johnson's graphic programming system is superior to Landis's line based programming system. However, NASA provided a detailed response in support of its finding that Landis's

programming system is inferior to Johnson's, and Landis did not respond to the agency's detailed position in its comments or further explain its general allegation of technical misunderstandings. We have reviewed the agency's detailed position and find no basis for questioning it. Further, in view of the vague, speculative nature of the broader "misunderstanding" allegation (despite Landis's access to the entire record), we find that Landis has failed to state a legally sufficient basis of protest, as required under our Bid Protest Regulations. 4 C.F.R. § 21.1(c)(4) (1992); See Robert Wall Edge--Recon., B-234469.2, Mar. 30, 1989, 89-1 CPD ¶ 335.

The protest is denied in part and dismissed in part.

  
for James F. Hinchman  
General Counsel